

Record of Proceedings
of the
INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The United States of America, the Republic of China,
the United Kingdom of Great Britain and Northern Ireland,
the Union of Soviet Socialist Republics, the Commonwealth of
Australia, Canada, the Republic of France, the Kingdom of
the Netherlands, New Zealand, India, and the Commonwealth
of the Philippines

-Against-

ARAKI, Sadao; DOHIHARA, Kenji; HASHIMOTO,
Kingoro; HATA, Shunroku; HIRANUMA, Kiichiro; HIRO-
TA, Kaki; HOSHINO, Naoki; ITAGAKI, Seishiro; KAYA,
Okinori; KIDO, Koichi; KIMURA, Heitaro; KOISO, Kuni-
aki; MATSUI, Iwane; MATSUOKA, Yosuke; MINAMI,
Jiro; MUTO, Akira; NAGANO, Osami; OKA, Takasumi;
OKAWA, Shumei; OSHIMA, Hiroshi; SATO, Keiyo; SHI-
GEMITSU, Mamoru; SHIMADA, Shigetaro; SHIRATO-
RI, Toshio; SUZUKI, Teiichi; TOGO, Shigenori; TOJO,
Hideki; UMEZU, Youshijiro;

-Accused-

Official Court Reporters

Jack Geisberg, Chief
Fred T. Abram
James F. Barton
Antoinette Duda
Samuel Goldberg
Robert H. Morse
John J. Smith
Daphne Spratt
Elvira Whalen
Julian Wolf
Lorraine Yeldert

20 SEPTEMBER 1946

I N D E X
of
WITNESSES

(none)

I N D E X
of
EXHIBITS

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of

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1 Friday, 20 September, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12
13 Appearances:

14 For the Tribunal, same as before.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

17 - - -

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19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If it please the Tribunal,
5 in answer to the question as to the purpose of intro-
6 ducing in evidence the statement of OSHIMA, exhibit
7 478, we desire to state:

8 One: That, of course, the document speaks
9 for itself. It is the language of OSHIMA, not of
10 prosecuting counsel.

11 Two: It relates to the influence of the
12 Army at the date referred to, 1935, the period of
13 which OSHIMA was speaking. It could not be properly
14 interpreted otherwise. No material sentence is
15 offered, isolated from its proper context nor with-
16 out the limitation fairly imposed by such context.

17 I did not use the words "completely under
18 military control." This is defense counsel's state-
19 ment. I said "that the Japanese Army was strong
20 enough to enforce its rule upon the Japanese Govern-
21 ment." This statement should be understood and con-
22 strued in the light of the context of the document
23 which, beginning at line 20 on page 5917 of the
24 record, reads as follows:

25 "Q Are they authorized by virtue of their

1 position as military attache to enter into negotia-
2 tions with the military of another nation, looking
3 towards a pact or a treaty or an international
4 agreement between the two nations?

5 "A Yes, if it was a strictly military matter
6 they may discuss these matters without going
7 through the ambassador. Before I go any further
8 I would like to stress here that they were ~~sound~~ing
9 out the opinion of the Japanese army and not that of
10 the Japanese government because if they had been that
11 would have been the ambassador's duty.

12 "Q Is it not also a fact that if Ribbentrop
13 or any one else in Germany could sell the military
14 of Japan on this idea that the military was then
15 probably in a position whereby they could persuade
16 the Foreign Office to go along with the idea?

17 "A Yes, that is one point and quite true that
18 the army had enough power to very probably sell the
19 pact to the Japanese government. The second point
20 is the one I stressed before that Ribbentrop was
21 not in an official capacity at the time. Particularly,
22 in this point, he had seen how the Japanese army had
23 taken possession of Manchuria and, therefore, naturally,
24 concluded from that that the Japanese army would be in
25 the strongest position to push a treaty of this type.

1 I would say that no treaty could possibly have
2 been made on this if the army had not wished it."
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1 In my statement I did not intend to go beyond
2 the plain import of this language.

3 So much in reply as to what the prosecution
4 claims from OSHIMA's admission.

5 As to the prosecution's claim with regard
6 to the influence of the Japanese Army or, more par-
7 ticularly, the military clique, a group embracing
8 many of the accused, it claims that the evidence will
9 show such influence substantially throughout the
10 entire period covered by the Indictment. How great
11 it was, the evidence will show, varied from time to
12 time. Naturally, the quantum of such influence can
13 neither be mathematically nor precisely gauged. It
14 is not of a quality to permit of such measurement.

15 That it reached into many branches of govern-
16 ment and, indeed, made itself felt in the schoolroom,
17 in the home, and in the lives of the people, includ-
18 ing the attempted control of thought, we believe the
19 evidence will clearly show. But, pertinent to the
20 issue, the prosecution desires to make very clear
21 its claim that each of the accused had fair under-
22 standing of and free will to choose the pathway he
23 would follow. We make no claim that duress was ap-
24 plied toward a single accused. If such is or will
25 be the defense of one or more named in the Indictment,

1 it can be so set forth on his or their behalf by
2 counsel when their time arrives to assert their de-
3 fense. Then, of course, all the proof offered can
4 be weighed in judgment.

5 THE PRESIDENT: Mr. Tavenner, we expected
6 to get your submission as to a particular document,
7 but you have given us a speech embracing a large
8 part of your case; and you provoked, of course, some
9 opposition at this stage from the defense. Normally,
10 of course, you would make your submissions on your
11 evidence and perhaps the evidence for the defense at
12 the end of the case. But, we have invited you at
13 stages to anticipate your submissions, to advance
14 them in order to clarify the position from time to
15 time, but only, of course, for the purpose of helping
16 us to appreciate what you suggest is the drift of any
17 particular piece of evidence.

18 There is no need now for a debate, Mr. Logan.

19 MR. LOGAN: I am sorry, your Honor.

20 THE PRESIDENT: There is no need for a de-
21 bate on this.

22 MR. TAVENNER: If your Honor please, may I
23 state that, in view of the nature of the question
24 propounded by your Honor when we closed yesterday
25 evening, I thought it called for some statement of

1 position on this matter, and that was the reason for
2 the statement. Otherwise, it would not have been
3 made.

4 THE PRESIDENT: I expected you to make a
5 short statement to this effect. You have made it at
6 great length: That, although you talked of the Army
7 having some control, it was not control that shifted
8 responsibility from the government.

9 Mr. Logan.

10 MR. LOGAN: Without entering into any debate
11 about this, your Honor, I just want to point out that
12 my inquiry yesterday was not directed to whether or
13 not the evidence being submitted supported the prose-
14 cution's claim. What I was interested in was knowing
15 whether or not their position with respect to the
16 entire case was, as stated by the prosecution, "that
17 in 1935 the Japanese Army was strong enough to force
18 its will upon the Japanese Government." That is in
19 quotations. It is a simple question. I think it
20 could be answered very simply either "yes" or "no."

21 THE PRESIDENT: Obviously, the prosecution
22 are under no obligation to advise the defense from
23 stage to stage as to what their submission is about
24 any particular piece of evidence; but the prosecution
25 has a duty, if the Court requests it, to give that

1 assistance to the Court.

2 MR. SHIMANOUCI: I am SHIMANOUCI, counsel
3 for the defendant OSHIMA. The prosecutor's state-
4 ment concerns document 2156-C. It seems to me that
5 in this document the prosecutor has completely mis-
6 understood the meaning of OSHIMA's statement. The
7 prosecutor asked whether the Japanese Army was strong
8 enough to sell its treaties to the government.

9 THE MONITOR: Correction: Prosecution
10 claims that the Japanese Army was strong enough to
11 sell a treaty to the government.

12 THE PRESIDENT: We do not intend to allow
13 this debate to be continued. We will not hear you
14 further on that. You will have an opportunity later
15 of giving evidence to that effect.

16 (Whereupon, Mr. SHIMANOUCI began
17 to speak again in Japanese.)

18 THE PRESIDENT: Did he hear what I said?
19 He is not using the earphones, of course. He prob-
20 ably has not heard.

21 (Whereupon, the interpreter re-
22 peated the President's former statement to
23 Mr. SHIMANOUCI.)

24 THE PRESIDENT: Mr. Tavenner.
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1 MR. TAVENNER: Mr. HANAI, Counsel for
2 HIROTA, challenged the statement that HIROTA was
3 President of the Cabinet Planning Board. I stated to
4 the Tribunal that I would check the matter and if
5 there was an error it would be corrected. Page 708
6 of the record --

7 THE MONITOR: Just a minute, please.

8 MR. TAVENNER: Page 708 of the record shows
9 that on June 10, 1937, HIROTA was appointed President
10 of the Planning Board and that the office was abrogated
11 on October 25, 1937. Mr. HANAI's statement that
12 HIROTA was Foreign Minister until May of 1938 instead
13 of January, 1939, as stated, is correct and I desire
14 to amend my statement accordingly.

15 I present in evidence prosecution document
16 No. 954 to show that shortly after the conclusion of
17 the Mongolian-Union of Soviet Socialist Pact of Mutual
18 Assistance in April, 1936, as shown in a previous
19 phase of the case, the conduct of negotiations for an
20 alliance with Germany was transferred from the General
21 Staff of the Japanese Army to the Foreign Ministry.
22 I will read only the --

23 THE PRESIDENT: Admitted as before.

24 MR. TAVENNER: Excuse me.

25 CLERK OF THE COURT: Prosecution's document

1 No. 954 will receive exhibit No. 479.

2 (Whereupon, prosecution's exhibit
3 No. 479 was received in evidence.)

4 MR. TAVENNER: I will read only the portion
5 dealing with the point mentioned:

6 "The Investigation Report on the Conclusion
7 of the Japan-German Anti-Comintern Pact, by Chairman
8 of the Examination Committee, ARAI, (Vice President
9 of the Privy Council), November 20, 1936.

10 "Therefore, as the first step for executing
11 the above foreign policy, the Government planned
12 coordination with Germany and since the spring of
13 this year has instructed the Japanese Ambassador to
14 Germany to carry on negotiations with the representative
15 officials of the German Government along the line of
16 joint defense against the red peril. As a result--

17 THE PRESIDENT: What page are you reading
18 from? None of us can find what you are reading.

19 MR. TAVENNER: I am sorry, I do not have the
20 page citation.

21 THE PRESIDENT: The middle of page 2?

22 MR. TAVENNER: Yes, sir. The middle of page
23 2, the last part of the paragraph in the middle of that
24 page. (Reading):

25 "As a result of this negotiation, both

1 governments have come to an understanding that a
2 special pact should be established for the above
3 mentioned coordination.

4 " * * *

5 "The above is our report on the result of our
6 investigation.

7 "To President of the Privy Council Baron
8 HIRANUMA, Kiichiro."

9 That is all I desire to read from that
10 document.

11 THE PRESIDENT: Mr. Smith.

12 MR. SMITH: If your Honor please, I would
13 like to have it clarified for the record as to what
14 is in evidence here. Exhibit 479 has been admitted.
15 It consists of five or six pages of solid typewriting;
16 yet they have read only two sentences out of it. I
17 would like to know what is in evidence, the whole
18 document or what was read.

19 THE PRESIDENT: It should not be necessary
20 for me to tell American counsel that the whole of the
21 document is in evidence but for the time being only
22 part has been read into the record. You may read
23 other parts into the record when your time comes to
24 give evidence.

25 MR. SMITH: With all deference to your Honor's

1 ruling, I think it is safe to say that American
2 counsel never heard of any such procedure before.
3 It puts a burden on us of marking out these documents
4 as to one or two sentences which have been read, and
5 we no longer know what is in the record and what is
6 not in the record; and we can point to any number
7 of rulings that transpired in the last month which
8 I can safely say leave counsel at sea as to what the
9 Court has considered and what it has not considered
10 in this case.

11 THE PRESIDENT: I cannot believe that you
12 speak for American counsel generally. I have fre-
13 quently said what I said a minute ago: that the
14 whole document is in evidence but for the time being
15 only part is read into the record.

16 Mr. Tavenner.

17 MR. TAVENNER: Mr. McKinney, will you assist
18 in the handling of these documents?

19 THE PRESIDENT: Mr. McKinney.

20 DR. KIYOSE: Mr. President.

21 THE PRESIDENT: Dr. KIYOSE.

22 DR. KIYOSE: In the document that has just
23 been read there was a line in quotations in English.
24 In the English text between brackets there are the
25 following words: "along the line of joint defense

1 against the red peril." This is on page 2 of the
2 document. This line cannot be found in the Japanese
3 text, and as in this case the Japanese text is the
4 original document, I feel that this line is not war-
5 ranted.

6 THE PRESIDENT: We refer the matter to the
7 Language Section.

8 Mr. McKinney.

9 MR. McKINNEY: The Tribunal's attention is
10 called to prosecution's basic document No. 921, which
11 was introduced into evidence as exhibit No. 36 and
12 consists of the Pact against the Communist Internation-
13 al and Accessory Protocol, parts of which I will read:

14 "PACT AGAINST THE COMMUNIST INTERNATIONAL

15 "The Japanese Imperial Government and the
16 German Government, admitting that the object of the
17 Communist International (so-called Comintern), is the
18 destruction and oppression by force of existing nations
19 with all the possible ways and means, in the firm
20 belief that to overlook the interference by Communist
21 International with these nations' internal relations
22 not only jeopardizes their domestic peace and social
23 welfare but also is a menace to world peace as a whole,
24 desirous to cooperate for the defense against Commun-
25 istic destruction, concluded a pact as follows:

1 "Article 1

2 "The contracting parties agree to inform each
3 other of the Communist International's activities,
4 to discuss necessary measures for defense and promise
5 to fulfill such measures through close cooperation.

6 "Article 2

7 "The contracting parties will jointly invite a
8 third nation, whose internal peace is menaced by
9 destructive activities of the Communist International,
10 to take defense measures in the spirit of this pact,
11 or to participate in the pact.

12 "Article 3

13 "As regards this pact, the Japanese and German
14 texts are official. It comes into force on the day
15 of signing and will be effective for five years.
16 The contracting parties will, at a proper date prior
17 to the expiration of the term, come to an understanding
18 as to the form of cooperation between the two countries
19 thereafter.

20 "As an evidence thereof, the undersigned duly
21 entrusted by their respective home governments, signed
22 and sealed this pact. Two copies of this pact were
23 prepared at Berlin on the 25th November of the 11th
24 year of Showa, i.e. the 25th November, 1936. (Sgd)
25 Viscount MUSHAKOJI, Kintomo, Envoy Extraordinary and

1 Ambassador Plenipotentiary of Japanese Empire; (Sgd)
2 JOACHIM V. RIPPENTROP, Envoy Extraordinary and Amba-
3 sador Plenipotentiary of Germany."

4 The prosecution offers in evidence documents
5 1561-A, 1561-B, 1561-C, 1561-D, 1561-E, 1561-F and
6 1561-G.

7 THE PRESIDENT: They relate to the secret
8 agreement against the Communist International?

9 MR. McKINNEY: Yes, sir; they relate to that.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's documents
12 No. 1561-A, B, C, D, E, F and G, consolidated under
13 one certificate, will receive exhibit No. 480.

14 (Whereupon, prosecution's documents
15 No. 1561-A, B, C, D, E, F, and G, were received
16 in evidence.)

17 MR. McKINNEY: The above-mentioned documents
18 containing secret Japanese-German agreements bear the
19 same date as the Anti-Comintern Pact and secret letters
20 transmitted between the contracting parties. I will
21 read document No. 1561-E:

22 "SECRET ATTACHED AGREEMENT TO THE AGREEMENT

23 AGAINST THE COMMUNIST INTERNATIONAL

24 "The Government of the German Reich

25 and

1 "The Imperial Japanese Government

2 "In the recognition that the Government of
3 the Union of Soviet Socialist Republics is working
4 toward the realization of the goal of the Communist
5 International and wants to use its Army for this
6 cause,

7 "In the conviction that this fact not only
8 threatens the existence of the High Contracting
9 States, but World Peace in general in a most serious
10 way,

11 "Have agreed for the preservation of common
12 interests as follows:

13 "ARTICLE I

14 "Should one of the High Contracting States
15 become the object of an unprovoked attack or an un-
16 provoked threat of attack by the Union of Soviet
17 Socialist Republics, the other High Contracting State
18 obligates itself, not to carry out any measures which
19 would, in their effect, be apt to relieve the position
20 of the Union of Soviet Socialist Republics.

21 "Should the case, mentioned in Clause I
22 occur, the High Contracting States will immediately
23 consult which measures they will use to preserve
24 their common interests.

25 "ARTICLE II

"The High Contracting States will during the

1 validity of this agreement and without mutual assent
2 conclude no political treaties with the Union of
3 Soviet Socialist Republics which do not conform to
4 the spirit of this agreement.

5 "ARTICLE III

6 "The German as well as the Japanese texts
7 will be regarded as the originals of this agreement.
8 It goes into force at the same time as the agreement
9 against the Communist International which was signed
10 today and has the same length of validity.

11 "Witness thereof, the signatories, well
12 and duly authorized by their respective governments,
13 have signed this agreement and have sealed it.

14 "Done in duplicate at Berlin, the 25th of November
15 1936, i.e., the 25th of November of the 11th Year of
16 Showa.

17 "(signed) Joachim von Ribbentrop,
18 Ambassador Extraordinary and
19 Plenipotentiary of the German Reich

20 "(signed) Viscount Kintomo Mushakoji
21 Imperial Japanese Ambassador Extra-
22 Ordinary and Plenipotentiary."

23 THE PRESIDENT: In the future, do not read
24 those formal parts. You can say who signed them but
25 do not give all these details, it is not necessary.

1 MR. McKINNEY: All right, sir.

2 Documents 1561-G and 1561-A are letters
3 relating to fishing treaties and certain concessions
4 between the U.S.S.R. and Japan and will not be read
5 into the record. I will read document No. 1561-F:

6 "Berlin, 25 November 1936.

7 "Mr. Ambassador,

8 "I have the honour to inform your Excel-
9 lency, on the occasion of the signing today of the
10 secret attached agreement to the Agreement against
11 the Communistic International, that the German
12 Government does not regard the provisions of the
13 existing political treaties between the German Reich
14 and the Union of Soviet Socialist Republics -- such
15 as the RAPALLO Treaty of 1922 and the Neutrality
16 Treaty of 1926, in so far as they have not become null
17 and void under the conditions existing at the time of
18 the coming into effect of this Agreement -- as being
19 in contradiction to the spirit of this Agreement and
20 the obligations arising from it.

21 "At the same time I take the opportunity to
22 renew the assurance of my highest esteem for your
23 Excellency."

24 That is signed by Ribbentrop.

25 THE PRESIDENT: And addressed to the Japanese

1 Ambassador to Berlin.

2 MR. McKINNEY: Yes, sir.

3 Document 1561-D is an acknowledgement of
4 receipt by the Japanese Ambassador of the letter
5 just read. I will now read document No. 1561-B:

6 "Berlin West 8, 23 October 36

7 "Wilhelmstrasse 64

8 "Ambassador Extraordinary and

9 Plenipotentiary of the German Reich

10 "Mr. Ambassador!

11 "I have the honor to acknowledge to your
12 Excellence the receipt of the communication of 23
13 inst. I took cognizance thereof as well as of the
14 contents of the telegram to the Foreign Minister,
15 Mr. ARITA, copy of which was enclosed.

16 "At the same time I welcome the opportunity
17 to renew to your Excellency the expression of my
18 highest esteem.

19 "(signed) VON RIBBENTROP."

20 MR. TAVENNER: I present for introduction
21 into evidence document 2628 -- I believe it is 2628-A,
22 which is an "Affidavit Concerning the Capture,
23 Processing and Preservation of German Documents."

24 THE PRESIDENT: Admitted as before.

25 CLERK OF THE COURT: Prosecution's document

1 No. 2628-A will receive exhibit No. 481.

2 (Whereupon, prosecution's document
3 No. 481 was received in evidence.)

4 MR. TAVENNER: This affidavit applies to
5 all captured German documents obtained from Nuernberg.
6 Attached to each of these German documents is an
7 additional affidavit by Gerard Schaefer, Chief of
8 the Documentation Division of the office of the
9 United States Chief of Counsel, Nuernberg, Germany,
10 showing receipt and custody of the documents by him;
11 and where the document was introduced in evidence in
12 trial at Nuernberg, a certification by William L.
13 Mitchell, General Secretary, International Military
14 Tribunal, Nuernberg, Germany, is attached, showing
15 that it is a true copy of the original document.

16 I will read the affidavit:
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1 "I, GERARD SCHAEFER, being first duly
2 sworn on oath, depose and say:

3 "1. That I am a commissioned Infantry
4 officer of the Army of the United States of America,
5 and my Serial Number is O-1332102.

6 "2. That I joined the staff of the Office
7 of the United States Chief of Counsel for the Pros-
8 ecution of Axis Crminality on the 31st of July,
9 1945, and was made Chief of the Field Branch at
10 the 7th United States Army Document Center, and
11 served in that capacity until the 25th of October
12 1945. That during said period of time I was in
13 charge of the screening and analyzing of captured
14 enemy documents and the dispatching by courier of
15 pertinent documents to the Office of the United
16 States Chief of Counsel, Documentation Division
17 at Nurnberg, Germany.

18 "3. On the 25th of October 1945, I was
19 called to the Office of the United States Chief
20 of Counsel at Nurnberg, Germany, and appointed
21 Chief of the Translation Branch of said Documen-
22 tation Division, and served in that capacity until
23 the 3d of December 1945. That during said period
24 of time I was in charge of, and supervised the
25 translation of all documents that were selected

1 for translation by said Documentation Division.

2 "4. On the 3d of December 1945, I
3 was appointed Executive Officer of said Documen-
4 tation Division and served in that capacity until
5 the 18th of March 1946. That during said period
6 of time I was first assistant to Major Kenneth R.
7 Boyle, who was the then Chief of the said Documen-
8 tation Division, and as such I was in charge of,
9 and responsible for, the operation of said Division
10 subject only to the orders of said Major Kenneth
11 R. Boyle.

12 "5. That on the 18th of March 1946,
13 I was appointed Chief of the Documentation Division
14 of the Office of the United States Chief of Counsel
15 and have continuously since said date acted in
16 that capacity, and as such am in charge of, and
17 responsible for the operation of said Documentation
18 Division.

19 "6. That Colonel Robert G. Storey served
20 as Chief of said Documentation Division of the Office
21 of the United States Chief of Counsel from its
22 inception on the 1st of July 1945 until the 22nd
23 of October 1945, and was succeeded as Chief by
24 Major William H. Coogan, who served until the
25 28th of November 1945, and who was in turn suc-

1 ceeded by Major Kenneth R. Boyle, who acted in that
2 capacity until the 18th of March 1946, at which time
3 I was appointed Chief, as aforesaid."
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1 "7. That the United States Chief of Counsel
2 in July 1945 charged the Field Branch of the Documenta-
3 tion Division with the responsibility of collecting,
4 evaluating and assembling documentary evidence in the
5 European Theater for use in the prosecution of major
6 Axis war criminals before the International Military
7 Tribunal.

8 "8. That I have served in the United States
9 Army for three years and, based on my experience as a
10 United States Army officer and my position and ex-
11 perience as above set forth, I am completely and thor-
12 oughly familiar with the operation of the United States
13 Army in connection with the seizing and processing of
14 captured enemy documents and the methods used by the
15 Office of the United States Chief of Counsel in ob-
16 taining, processing, filing, translating and photo-
17 stating all documentary evidence for the United States
18 Chief of Counsel.

19 "9. That as the Army overran German occupied
20 territory, and then Germany itself, certain specialized
21 personnel seized enemy documents, books and records for
22 information of strategic and tactical value. During the
23 early stages such documents were handled in bulk and
24 assembled at temporary centers. However, after the
25 surrender of Germany they were transported to the var-

1 "7. That the United States Chief of Counsel
2 in July 1945 charged the Field Branch of the Documenta-
3 tion Division with the responsibility of collecting,
4 evaluating and assembling documentary evidence in the
5 European Theater for use in the prosecution of major
6 Axis war criminals before the International Military
7 Tribunal.

8 "8. That I have served in the United States
9 Army for three years and, based on my experience as a
10 United States Army officer and my position and ex-
11 perience as above set forth, I am completely and thor-
12 oughly familiar with the operation of the United States
13 Army in connection with the seizing and processing of
14 captured enemy documents and the methods used by the
15 Office of the United States Chief of Counsel in ob-
16 taining, processing, filing, translating and photo-
17 stating all documentary evidence for the United States
18 Chief of Counsel.

19 "9. That as the Army overran German occupied
20 territory, and then Germany itself, certain specialized
21 personnel seized enemy documents, books and records for
22 information of strategic and tactical value. During the
23 early stages such documents were handled in bulk and
24 assembled at temporary centers. However, after the
25 surrender of Germany they were transported to the var-

1 ious document centers established by Army Headquarters
2 in the United States Zone of Occupation. In addition
3 to the documents actually assembled at such Centers,
4 Army personnel maintained and secured considerable
5 documents 'in situ' at or near the place of discovery.
6 When such documents were located and assembled they
7 were catalogued by Army personnel into collections, and
8 records were maintained which disclosed the source and
9 such other information available concerning the place
10 and general circumstances surrounding the acquisition
11 of the documents.

12 "10. The Field Branch of the Documentation
13 Division of the Office of the United States Chief of
14 Counsel was staffed by personnel thoroughly conversant
15 with the German language. Their task was to search
16 for and select captured enemy documents in the Euro-
17 pean Theater which disclosed information relating to
18 the prosecution of the major Axis war criminals.
19 Officers under the supervision of the Chief of said
20 Field Branch were placed on duty at various Document
21 Centers, and also dispatched on individual missions to
22 obtain original documents. When documents were located
23 such officers made a record of the circumstances under
24 which they were found. Such documents were further
25 identified by Field Branch pre-trial serial numbers

1 assigned by such officers who would then periodi-
2 cally dispatch such documents by courier to the Office
3 of the United States Chief of Counsel.

4 "11. Upon receipt of these documents they
5 were duly recorded and indexed. After this operation
6 they were delivered to the Screening and Analysis Branch
7 of the Documentation Division of the Office of the
8 United States Chief of Counsel, which Branch re-exam-
9 ined said documents in order to finally determine
10 whether or not they should be retained as evidence for
11 the prosecutors. This final screening was done by
12 German-speaking analysts on the staff of the Office of
13 the United States Chief of Counsel. When the document
14 passed the screeners it was then transmitted to the
15 Document Room of the Office of the United States Chief
16 of Counsel with a covering sheet prepared by the
17 screeners showing the title or nature of the document,
18 the personalities involved, and its importance. In
19 the Document Room a trial identification number was given
20 to each document, or to each group of documents in
21 cases where it was desirable for the sake of clarity
22 to file several documents together.

23 "12. United States documents were given trial
24 identification numbers in one of five series designated
25 by letters: 'PS', 'L', 'R', 'C', and 'EC', indicating

1 the means of acquisition of the documents. Within
2 each series documents were listed numerically."
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1 "13. In almost all instances the original
2 captured enemy document was delivered to the Docu-
3 mentation Division of the Office of the United States
4 Chief of Counsel and processed in the manner herein
5 set forth. In a comparatively few instances, however,
6 the Army Document Centers retained possession of orig-
7 inal documents for the reason that various other agen-
8 cies desired access to said original documents at
9 said Army Document Centers. In all such latter in-
10 stances true and accurate photostatic copies of such
11 original documents were made by said Army Document
12 Centers and such photostatic copies were transported
13 to said Documentation Division at Nurnberg Germany,
14 and were thereupon processed in the same manner as
15 original documents. It was almost exclusively
16 with reference to captured German foreign office
17 documents that photostatic copies of the original
18 captured documents, rather than the originals them-
19 selves, were delivered to said Documentation Div-
20 ision. These original captured foreign office doc-
21 uments were assembled primarily at the Marburg Ger-
22 many Document Center and were, and still are, in
23 great demand by many agencies; and as a result, the
24 originals were retained by said Army Document Center
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1 and photostatic copies of the originals dispatched to
2 the said Documentation Division at Nurnberg, as
3 aforesaid.

4 "14. After a document was so numbered it
5 was then sent to a German speaking analyst who pre-
6 pared a summary of the document with appropriate
7 reference to personalities involved, index head-
8 ings, information as to the source of the document
9 as indicated by the Field Branch, and the import-
10 ance of the document to a particular phase of the
11 case under investigation. Next, the original doc-
12 ument that had been received by said Documentation
13 Division was returned to the Document Room and was
14 then checked out to the Photostatic Department
15 where photostatic copies were made. Upon return
16 from photostating it was placed in an envelope in
17 one of the several fire-proof safes in the rear
18 of the Document Room. One of the said photostatic
19 copies of the document was sent to the translators
20 and the original document received by said Docu-
21 mentation Division thereafter remained in the
22 safe. A commissioned officer or War Department
23 employee has been, and is, responsible for the
24 security of the documents in the safes. At all
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1 times when he is not present the safe is locked and
2 a military guard is on duty outside the only door.
3 If the officer preparing the certified translation,
4 or one of the officers working on the briefs found
5 it necessary to examine the original document,
6 this was done within the Document Room in the sec-
7 tion set aside for that purpose. The only excep-
8 tion to this strict rule has been where it has been
9 occasionally necessary to present the original doc-
10 ument to the defendants for examination. In this
11 case the document was entrusted to a responsible
12 officer of the prosecution staff.

13 "15. That all original documents or
14 photostatic copies of original documents that
15 were obtained and processed by the Office of the
16 United States Chief of Counsel as herein set forth
17 are now located in the safes of the Document Room
18 of said Documentation Division, with the excep-
19 tion of those documents that have been introduced
20 in evidence before the International Military Tri-
21 bunal at Nurnberg, Germany. Such documents that
22 have been so introduced in evidence as above set
23 forth were removed from said Documentation Divis-
24 ion and deposited with the General Secretary of said
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1 International Military Tribunal, concurrently with
2 their receipt in evidence, and are now in the cus-
3 tody of, and under the control and supervision of
4 said General Secretary.

1 MR. TAVENNER: (Continuing) That relates
2 to documents obtained from Nuernberg. Some German
3 documents were obtained from the Document Center at
4 Berlin. Attached to each of such documents is the
5 affidavit of W. P. Cumming describing the source of
6 the document and custodial facts. Copies of all of
7 the affidavits and the certificate mentioned will
8 have been served upon the accused or their counsel
9 under the rule of the Court. Mr. Henry Sackett of
10 the International Prosecution Section performed the
11 duties of a courier in delivering these German docu-
12 ments, affidavits, and certificates to Mr. E. E. Danly,
13 Chief of the Document Division, and certificates by
14 both Mr. Sackett and Mr. Danly are attached to the
15 original document introduced in evidence.

16 I now introduce in evidence prosecution's
17 document 4017C, which I will read.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 4017C will receive exhibit No. 482.

21 (Whereupon, prosecution's exhibit
22 No. 482 was received in evidence.)

23 MR. TAVENNER: (Reading)

24 "Berlin, 23 October 1936, Japanese Embassy,
25 Berlin.

1 "Mr. Ambassador:

2 "I have the honor to inform Your Excellency
3 that I sent the attached telegram to Foreign Minister
4 ARITA together with the telegraphic information, that
5 today the signing was concluded.

6 "At the same time I welcome the opportunity
7 to renew" and so forth.

8 "(signed) MUSHAKOJI."

9 The enclosure is as follows:

10 "Japanese Embassy, Berlin.

11 "Ambassador in Berlin, Viscount MUSHAKOJI,

12 "To His Excellency, Foreign Minister ARITA

13 "Berlin, 23 Oct. 1936.

14 "Concerning the inclosures III and IV of the
15 Secret Annexed Agreement to the Agreement against the
16 Communist International I have as a result of my nego-
17 tiations with Mr. VON RIBBENTROP the firm conviction
18 that only the spirit of the above mentioned secret
19 agreement will be decisive for Germany's future
20 policy towards the U. S. S. R.

21 "I showed VON RIBBENTROP this telegram and
22 received his agreement.

23 "MUSHAKOJI."

24 I now introduce in evidence prosecution's
25 document 1561B. It is already in evidence. I will

1 not read this message, as it is merely a receipt of
2 the message -- of the telegram and information just
3 read.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: It is already in evidence.

6 THE PRESIDENT: It is already in, is it?

7 CLERK OF THE COURT: Yes, sir.

8 THE PRESIDENT: This is a convenient break.

9 We will recess now for fifteen minutes.

10 (Whereupon, at 1045, a recess was
11 taken until 1100, after which the proceedings
12 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: I offer for identification only
5 an issue of the Tokyo Gazette, December, 1937, and from
6 it I desire to introduce in evidence prosecution's
7 document 1503. This is an excerpt from an official
8 statement of the Bureau of Information, Department of
9 Foreign Affairs entitled, "On the Japanese-German-Italian
10 Agreement Against the Communist International."

11 THE PRESIDENT: You are not tendering the
12 Gazette.

13 CLERK OF THE COURT: Prosecution's document
14 No. 1503, to-wit: a copy of the Tokyo Gazette No. 6
15 of December, 1937, will receive exhibit No. 483 for
16 identification only.

17 (Whereupon, the document above referred
18 to was marked prosecution's exhibit No. 483 for
19 identification.)

20 THE PRESIDENT: But you tender the excerpt.
21 Admitted on the usual terms.

22 CLERK OF THE COURT: The excerpt from prose-
23 cution's document 1503, with the same number, will
24 receive exhibit No. 483A.

25 (Whereupon, the document above referred

1 to was marked prosecution's exhibit No. 483A and
2 received in evidence.)

3 MR. TAVENNER: The purpose is to show that
4 Japan proclaimed to the world that the Japanese-German
5 agreement was not directed toward any particular
6 country. I will read one paragraph, beginning at the
7 top of page 2. (Reading)

8 "Importance of the Agreement.

9 "The Japanese-German Agreement, as has been
10 enunciated, simply provides for a special type of co-
11 operation between the two countries against the Commu-
12 nist International; as such it is not directed toward
13 any particular country. This true nature of the Pact,
14 however, has not been comprehended by all, and has been
15 subjected to many unfair criticisms."

16 Prosecutions document 1105 A, B, C, and D --
17 A, B, and C, is offered to show that the Japanese-
18 German Agreement was aimed at the U.S.S.R. and was
19 designed and intended to strengthen the hand of Japan
20 in China.

21 THE PRESIDENT: Are you tendering that?

22 MR. TAVENNER: Yes, sir.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1105 A, B, and C will receive exhibit No. 484.

1 (Whereupon, the document above referred
2 to was marked prosecution's exhibit No. 484 and
3 received in evidence.)

4 MR. TAVENNER: After reading the caption, I
5 will begin near the end of page 2. (Reading)

6 "Report of the Investigations Concerning
7 the Conclusion of the Japanese-German Pact.

8 "The present Japanese-German pact comprises
9 two pacts: Pact against the Communist Internationale
10 and the Secret Attached Pact against the Soviet Union,
11 each of which pacts contains a protocol. The gist of
12 the two pacts is as follows:

13 "1. Pact against the Communist Internationale.

14 "The said pact has as its object cooperation
15 for defence against the destructive communistic
16 activities of the Communist Internationale. The
17 signatory powers agree to exchange information on the
18 activities of the Comintern, consult with each other
19 in adopting necessary defensive measures and achieve
20 these defensive measures through close cooperation.
21 (Article I)

22 "The signatories further agree to take
23 defensive measures, in accordance with the purport of
24 the said pact, against third countries whose internal
25 peace is threatened by the comintern's destructive

1 activities, or invite such countries to join the said
2 pact (Article II). The official text of this pact
3 shall be written in both Japanese and German, the pact
4 shall become effective as from the date of signing
5 by the plenipotentiaries of the two countries, and remain
6 valid for five years, and the signatories shall reach
7 an understanding at a suitable time before the expiration
8 of the period as to the means of subsequent
9 cooperation between the two countries. (Article III)

10 "The protocol attached to this pact provides
11 that the government officials concerned of the two
12 countries shall closely cooperate with each other in
13 exchanging intelligence about the Comintern's activities
14 and in effecting educational and defensive measures
15 against the Comintern, and take strict measures, within
16 the scope of the present laws, against those who,
17 either within or without the country, directly or indirectly
18 work for the Comintern or assist in its destructive
19 operations; and that in order to facilitate
20 the cooperation between the government officials concerned
21 of the two nations, a standing committee shall
22 be established to study and discuss various measures
23 necessary for preventing the Comintern's destructive
24 operations.

25 "II. Secret Pact Attached to the Pact

1 against the Communist Internationale.

2 "This pact has as its object the protection
3 of the common interests of both Japan and Germany
4 against the armed pressure exerted by the Soviet
5 Union. The signatory powers agree that in case one
6 of the signatory powers is attacked or threatened with
7 attack by the Soviet Union without provocation, the
8 other signatory party shall refrain from taking any
9 measure likely to result in any diminution of the
10 burden of the Soviet Union's position, and the two
11 signatories shall immediately discuss measures to be
12 taken for the protection of their mutual interests.

13 (Article I) The signatories further agree not to con-
14 clude, during the continuation of this pact, any
15 political treaties with the Soviet Union which contra-
16 vene the spirit of this pact, without mutual consent.

17 (Article II) The official text of the pact shall be
18 written in both Japanese and German, the pact shall
19 be put into effect simultaneously with, and shall be
20 effective for the same period as that of Pact No. 1.

21 (Article III)

22 "In the Appendix to this Pact, Nos. 1 and 2
23 of the official notes exchanged between the Japanese
24 and German plenipotentiaries prescribe that the poli-
25 tical treaties mentioned in Article II of the pact do

1 not include the Fishery Treaty and the Concession
2 Treaty between Japan and the Soviet Union, the treaty
3 concerning boundary line problems between Japan,
4 Manchuria and the Soviet Union, and also any other
5 similar treaties which may be concluded between Japan
6 and the Soviet Union. Official Notes No. 3 and No. 4
7 confirm the German Government's view that the articles
8 in such political treaties as the Rapallo Treaty
9 of 1922 and the Neutrality Pact of 1926 existing be-
10 tween Germany and the Soviet Union do not conflict with
11 the spirit of this Pact and Germany's obligations aris-
12 ing from this Pact as long as the object is not lacking
13 in the situation at the time of the enforcement of
14 this Pact. The foregoing items of understanding pro-
15 vide that both countries agree upon keeping secret
16 the pact and the attached official notes, and also that
17 even if communication of the contents of the Pact to
18 a third power ever happens to be to the interest of
19 both parties, such notification shall be made only
20 with their mutual consent.

21 "In reply to our questions regarding the
22 object of concluding the Pact and other matters, the
23 competent Minister has given us full explanations, the
24 chief points of which are as follows:

25 "(1) Inasmuch as this Pact has as its object

1 nothing but cooperation between Japan and Germany in
2 defending themselves from the Comintern's destructive
3 activities and in checking the armed pressure of the
4 Soviet Union, Japan's cooperation with Germany for this
5 particular object through this Pact in no way whatever
6 implies that Japan fully approves of that country's
7 principles in respect to her internal affairs or that
8 Japan will act in concert with her. In order to pre-
9 vent any suspicion and misunderstanding at home and
10 abroad regarding this point, the Government will
11 clarify the purport of the Pact and also do its best
12 to take other appropriate measures at the same time
13 as it publishes such parts of the Pact as are to be
14 made public.

15 "(2) Since the object of this Pact is, as
16 mentioned above, simply to make it an instrument for
17 preparing for the Comintern and the Soviet Union, we
18 on our side should of course refrain even after the
19 conclusion of this Pact, from taking any positive
20 measure which might aggravate relations with the
21 Soviet Union. As to the demarcation of the boundary
22 line, the settlement of boundary disputes, and other
23 matters of negotiation between Japan and the Soviet
24 Union, the Government will constantly give its most
25 devoted attention in order to adjust as may be best

1 the two countries' diplomatic relations. Moreover,
2 the Government will always do its utmost to maintain
3 and promote amicable relations between Japan and
4 Britain and the United States, especially the cordial
5 relations between Japan and Britain.

6 "(3) It is a matter of deep concern as to
7 what influence the conclusion of this Pact will have
8 on the present Sino-Japanese negotiations. The fact
9 that the conclusion of the Pact will further
10 strengthen Japan's position ought to prove quite
11 effective in making China decide her attitude. We are
12 not without expectations, therefore, of being able to
13 use this situation for promoting developments in the
14 Sino-Japanese negotiations favorable to ourselves.
15 The Government is resolved to leave nothing undone in
16 its measures for coping with the situation.

1 "(4) In view of the fact that the conclusion
2 of this Pact is due to the recent political change in
3 Germany and the establishment of the Nazi Regime, the
4 actual effect of the Pact will, of course, depend in
5 no small measure upon the subsequent vicissitudes of
6 the Nazi Regime. However, since the present regime,
7 which came into power only after Germany had experienced
8 all the innumerable tribulations subsequent to the
9 European War and after successive governments had won
10 the dissatisfaction of the whole nation, is steadily
11 achieving success in both internal administration and
12 diplomacy, and has won a firm hold on the confidence
13 of a large number of the people, thanks to its unique
14 principle, without resorting to revolutionary be-
15 haviour, there is no likelihood of its collapsing
16 easily at least in the near future. Consequently no
17 special difficulty will be felt in securing effective
18 results from the Pact in the future.

19 "(5) The wording of the statements con-
20 tained in Official Notes No. 3 and No. 4 of the
21 appendix to the second pact mentioned above is, we
22 regret to say, somewhat deficient in clarity. How-
23 ever, they confirm the view of the German Government
24 that among the articles in the Rapallo Pact and the
25 Neutrality Pact existing between Germany and the

1 Soviet Union, those which conflict with the spirit
2 of the present Japanese-German Pact and Germany's
3 obligations arising thereunder will become invalid
4 as the result of the extinction of their object in
5 the light of the situation prevalent when the pre-
6 sent Pact is enforced. There is no doubt on this
7 point, as may be judged from the fact that during
8 the course of the negotiations on the present Pact
9 our ambassador to Germany wired the following tele-
10 gram to our Foreign Minister after obtaining the
11 assent of the representative of the German Government.

12 "I have the firm conviction that the
13 spirit of this Pact will prove to be the sole
14 basis of Germany's future policy toward the
15 Soviet Union.'

16 "It seems to us that this Japanese-German
17 Pact is an agreement, based on the common interest
18 of the two countries, for taking appropriate measures
19 in cooperation for a joint defense of the two
20 countries from the destructive activities of the
21 Communist Internationale, and for maintaining close
22 cooperation between them for a joint stand against
23 the armed pressure of the Soviet Union. It goes
24 without saying that there is very great significance
25 in Japan's conclusion of a special pact such as this

1 one with Germany. Although serious consideration
2 should of course be given to the various probable
3 internal as well as external influence of this Pact,
4 it is rather a timely measure for Japan, in considera-
5 tion of the present international situation, to con-
6 clude the present Pact and cooperate with Germany as
7 one of the counter-measures for defending themselves
8 from and checking the aggressive pressure of the Com-
9 munist Internationale and the Soviet Union. We,
10 accordingly, recognize that on the whole there is no
11 objection to the text or to the attached documents.
12 However, since the aim of the Communist Internationale
13 is to destroy and oppress existing nations by every
14 means it can find, and, since its activities in any
15 individual country certainly threaten the peace of the
16 whole world, as already mentioned in the introduction
17 to Pact No. 1, efforts should be made to achieve
18 fully effective results through world-wide inter-
19 national cooperation in exchanging intelligence con-
20 cerning the activities of the Internationale and in
21 concerting the necessary defensive measures against
22 them. Accordingly, it is the earnest desire of
23 this committee that following the conclusion of this
24 Pact, the Imperial Government will, in joint co-
25 operation with the German Government in accordance

1 with the provisions of Article II, endeavour to in-
2 duce as many third powers as circumstances permit to
3 join the said pact or take defensive measures in
4 accordance with the purport of the said pact, in order
5 to achieve the desired object. The Investigation Com-
6 mittee unanimously recommends that this item be ap-
7 proved without any amendment and also submit the
8 foregoing wishes.

9 "We submit the foregoing report on the re-
10 sults of our investigations.

11 "Nov. 20th, 1936."

12 MR. TAVENNER: I tender in evidence pro-
13 secution's document 949-A.

14 THE PRESIDENT: What is it about? It per-
15 tains to the conclusion of the agreement between
16 Japan and Germany?

17 MR. TAVENNER: Yes, sir.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 949-A will receive exhibit No. 485.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 485 and received in evidence.)

24 MR. TAVENNER: This document is a record of
25 the minutes of the Privy Council on 25 November 1936,

1 at which the anti-Comintern Pact was approved. I will
2 read the caption, a statement by ARITA, and the con-
3 cluding paragraph. (Reading)

4 "Matters pertaining to the conclusion of
5 the Agreement between Japan and Germany.

6 "Attended by President HIRANUMA; Ministers,
7 Prime Minister HIROTA, Navy Minister NAGANO. Com-
8 missioners, TOGO Chief of European-Asiatic Affairs,
9 Bureau of the Foreign Ministry."

10 THE PRESIDENT: These are minutes of the
11 Privy Council. I would like you just to give a short
12 description of each document as it is tendered, before
13 I admit it, Mr. Tavenner.

14 MR. TAVENNER: (Reading)

15 "ARITA: 'First of all I wish to say a few
16 words in reply to Councillor ARIMA's remarks and then
17 answer Councillor HARA's question.

18 "As regards the question by Councillor
19 ARIMA whether there is any fear that Soviet Russia
20 would bring about the worst results to counteract
21 the Japan-Germany Pact if the substance of it became
22 known to Russia, the government's policy is to
23 strenuously avoid any outbreak of an affair with
24 Soviet Russia even after the conclusion of the Japan-
25 Germany Pact. The substance of the secret agreement

1 has considerable possibilities for development de-
2 pending on the intention of the two countries and if
3 there should arise any danger of an outbreak of war
4 between Japan and Soviet Russia, there is still room
5 to push the discussion beyond the provisions of this
6 agreement. Henceforth, Soviet Russia has to consider
7 the fact that she has to face both Japan and Germany
8 and for that reason I believe that even if Japan's
9 military preparations should not be adequate, Russia
10 will not initiate any affair.

11 "Next I wish to reply to Councillor HARA's
12 question. As you have stated, it was the plan not to
13 announce the Japan-Germany Pact until the signing
14 of the Russo-Japanese Fishery Treaty was completed.
15 However, even before the signing of the treaty, a
16 rumor about the completion of the Japan-Germany
17 agreement spread from some place. Moreover, a rumor
18 of a coalition among Japan, Germany and Italy appeared
19 in the newspapers and even in Japan some people believe
20 that a Japan-Germany Agreement has been concluded.
21 As the situation was such that we did not know when
22 matters pertaining to the agreement would appear on
23 the newspapers we had to prohibit the printing of
24 any newspaper articles dealing with the topic.

25 "In spite of this it appears that through

1 the homes of foreign correspondents the rumor of the
2 Japan-Germany Pact was reported from Japan to the
3 United States and that from there the rumor has
4 spread to Europe. It is most regrettable that the
5 secret leaked out in that manner. As a result of
6 these rumors, when the Soviet ambassador called at
7 the Foreign Ministry on the sixteenth, he asked me
8 whether the rumor about the conclusion of some sort
9 of treaty between Japan and Germany was true or not.
10 I did not deny the rumor entirely but explained
11 Japan's policy of defense against Communism. I fur-
12 ther stated the aim of the decision made at the
13 Seventh General Meeting of the Comintern and said
14 that in order to defend against this aim, Japan re-
15 quired the cooperation of some other Power, that
16 negotiations were going on at present for this pur-
17 pose, and that as that cooperation was confined to
18 the checking of Bolshevich operations, it would be
19 no obstacle to the friendly relations of Japan and
20 Soviet Russia. As the Agreement had not yet been
21 made public, I could not tell him fully of its sub-
22 stance. It can be easily imagined that the Soviet
23 Government has conjectured the existence of some
24 form of secret agreement other than that against
25 Communism.

1 " 'It was planned to have the Russo-Japanese
2 Fishery Treaty signed on the 20th of this month, but
3 this was postponed by Soviet Russia. The reason, it
4 is said, is that, hearing that an understanding has
5 been made between Japan and Germany against Communism,
6 some people in Soviet Government circles are opposed
7 to the immediate signing of the Treaty. However, I
8 feel that when the Japan-German Agreement is announced,
9 and the fact that it is only intended against the
10 Comintern becomes clear the treaty will eventually
11 be signed. Should Soviet-Russia decline to sign,
12 there will be no treaty, and there will remain no
13 other way than to fish freely, but Russia, I think
14 does not desire such consequences. For, in spite of
15 hearing rumors for a long time that some sort of
16 negotiation is being carried out between Japan and
17 Germany, Soviet Russia has shown a good deal of sin-
18 cerity in both the oil and fishery negotiations as
19 also in the discussion of boundary problems.

20 " As the present Japan-Germany Agreement
21 was not entirely unexpected by Soviet Russia, I be-
22 lieve that she will not assume a provocative atti-
23 tude/towards Japan/nor refuse to sign/the Fishery
24 Treaty/ to the very last."

25 Chairman (HIRANUMA): 'As nobody else will

1 speak, the second reading will be omitted, and the
2 draft will be immediately put to a vote. Those who
3 approve the draft will please stand up."

4 All stood up.

5 "Chairman (HIRANUMA): This draft has been
6 unanimously approved."

7 The next section of our presentation deals
8 with Japanese-German collaboration under the Anti-
9 Comintern Pact, Soviet agreement and secret negoti-
10 ations.

11 THE PRESIDENT: Admitted on the usual terms.

12 MR. TAVENNER: There is a third group of
13 German documents to be presented in evidence. They
14 were captured by the armed forces of the United States
15 at Marburg where they were microfilmed by a joint
16 American-British team. Duplicates were made and
17 forwarded to the Department of State of the United
18 States, and true prints of these microfilm records
19 are being produced from the Department of State. These
20 facts are set forth in an affidavit by Gardner C.
21 Carpenter and by a certificate of the Acting Secretary
22 of State of the United States.

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1 I now file in evidence as prosecution exhibit
2 2654, a set of microfilm prints of nineteen items.

3 THE PRESIDENT: Admitted as before.

4 MR. TAVENNER: To which are attached the
5 certificate of the Acting Secretary of State, and the
6 affidavit of Gardner C. Carpenter.

7 This document with the affidavit and certi-
8 ficate attached arrived from Washington this week
9 after we had processed and served on the accused or
10 their counsel English and Japanese translations of
11 each item contained therein. We have now processed
12 and served on the accused or their counsel copies of
13 said certificate and affidavit in English and Japanese
14 so that we are in compliance with the Tribunal's rule
15 with regard to the entire document.

16 As the items of this document are read in
17 evidence we will preserve our original document numbers
18 for the sake of clarity and will cross-reference them
19 to the instant document.

20 THE PRESIDENT: What do you want me to do?

21 MR. TAVENNER: To permit the filing of this
22 certificate and affidavit as a document, and the tele-
23 grams to which they are attached.

24 THE PRESIDENT: Admitted accordingly.

25 CLERK OF THE COURT: Prosecution's document

1 No. 2654 will receive exhibit No. 486 for identifica-
2 tion.

3 MR. TAVENNER: In order that there be no mis-
4 understanding I desire to offer in evidence with the
5 affidavit and certificate each of the microfilm prints
6 attached to the same.

7 THE PRESIDENT: We accept it that way.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2654 will be given exhibit No. 486, with the
10 endorsement, "received for identification and received
11 in evidence."

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit
14 No. 486, and was received in evidence.)

15 MR. TAVENNER: I will now read prosecution
16 document 1266 in evidence as item 6 of exhibit 486.
17 This is a telegram and report.

18 THE PRESIDENT: I would like to know what you
19 are trying to do. It is most difficult to follow.
20 Do you propose that these be numbered separately?

21 MR. TAVENNER: This document is merely one of
22 eighteen or nineteen items that are to be found in the
23 exhibit just introduced.

24 THE PRESIDENT: Well, if they haven't separate
25 numbers, isn't it desirable to have separate letters

1 at all events?

2 MR. TAVENNER: I believe it would clarify the
3 matter if they were lettered as they are being read.

4 CLERK OF THE COURT: We will letter the one
5 which has just been handed up 1266-A, and then the
6 subsequent ones with subsequent letters

7 THE PRESIDENT: This affidavit is exhibit
8 No. 486. As you tender the documents enumerated on
9 page 2 of No. 486, you will call out the letter, A,
10 B, C, D, and so on until you complete the number of
11 annexes.

12 Well now, item 6 on page 2 of exhibit No. 486
13 is exhibit No. 486-A?

14 MR. TAVENNER: Yes. This is a telegram and
15 report sent from the German Foreign Ministry to the
16 German Embassy in Tokyo shortly after the Marco Polo
17 Bridge occurrence. There is an erroneous omission of
18 a word at the end of the first paragraph on page 2
19 of the English translation. Before the word "attitude"
20 there should be inserted the word "neutral."

21 I will read the document.

22 "Berlin, 28 July 1937 Diplogerma Tokio
23 No. 148 Telegram in Ciphers To Telegrams No. 182
24 and 193

25 "Japanese attempts to base measures in China

1 as fight against Communism on the Anti-Comintern Agree-
2 ment are devious. As already stated in telegram 140
3 the agreement has not the objective of fighting Bol-
4 shevism in the territory of third states. Rather,
5 Japan's measures may be considered by us as being
6 contrary to the Anti-Comintern Agreement because they
7 obstruct the consolidation of China thus promoting the
8 spread of Communism in China and, in the end, driving
9 the Chinese into the arms of Russia. (To this I note
10 confidentially that in a conversation with Ambassador
11 Trautmann Chiang Kai-shek replied to a question in that
12 regard that one has to count with the possibility of an
13 intervention of Russia into a possible war at a later
14 time. He, Chiang Kai-shek, has made no agreements with
15 the Russians up to now, but the situation is changed.)
16 The Japanese have therefore no reason to expect us to
17 favor their undertaking, rather can we expect of them
18 that they cause no disturbance in China. We remain
19 of the opinion that the so-called 'creation of a clear
20 strategic situation' does not mean any facilitation
21 for Japan in regard to a future possible conflict with
22 Russia. It will be necessary to consider the conse-
23 quences of an increased hatred of the Chinese against
24 Japan for years to come, the more Japan gets a hold in
25 North China. Japan would therefore have to carry on a

1 two-front war in the case in question; this would be
2 the case even if the maximum program of the Japanese
3 military, separation of the Five Provinces, were car-
4 ried out.

5 "Recently the Japanese have been carrying on
6 radio propaganda in German language directed towards
7 Germany, which continuously is attempting to repre-
8 sent the war against China as a fight against Commun-
9 ism and to force upon us /the necessity of/ taking
10 side at least morally. This propaganda is unwelcome
11 to us.

12 "The Reichsminister informed the Japanese
13 Ambassador before upon his remonstrances that delivery
14 of armaments to China in any amount worth mentioning
15 have not been taking place either now nor earlier.
16 The Japanese cannot reprimand us for the fact that
17 the Chinese bought arms from us in a limited amount.
18 The deal developed on a purely economic basis. We have
19 shown our new arms most willingly to the Japanese and
20 have given the Japanese commissions far-reaching
21 insight. It is not our fault that the Japanese have
22 up to now failed to make any orders, a fact which we
23 can only regret. The German deliveries of armaments
24 to China cannot be made the object of German-Japanese
25 negotiations. Since a situation has now arisen which

1 approximates a state of war further deliveries of
2 war material to China will cease because of our neutral
3 attitude.

4 "Withdrawal of our military advisors in China
5 would at the present moment mean that we are taking
6 sides against Nanking and is therefore out of question.
7 A withdrawal of the advisors could possibly also lead
8 to the vacated positions being occupied by Russians;
9 this is a consequence which is also undesirable for
10 the Japanese. The Japanese Military Attache has up
11 to now only stated in the war ministry his wish that
12 the advisors may not participate in active combat
13 actions. Advisors have always had a corresponding
14 instruction which recently has been expressly restated.
15 MUSHAKOJI, who was informed of this, acknowledged this
16 measure with thanks.

17 "A remark of the Adjutant to the War Minister
18 that the policy of cooperation of the Japanese Army
19 is endangered by our attitude in the question of the
20 advisors since the already existing opposition of
21 single groups of Japanese officers is threatening to
22 spread to the masses, finds no understanding here.

23 "I have just informed Ambassador MUSHAKOJI
24 in accordance with the above statements in a cordial
25 manner and I request of you to regulate your statements

1 correspondingly and to advise the Japanese emphat-
2 ically to apply moderation."

3 "(Signed) Weizsacker."
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1 "Berlin, 28 July 1937.

2 "The Japanese Ambassador visited me today
3 in order to hand me the attached report about the
4 situation which by the way and as far as I know has
5 already appeared in press reports.

6 "The Ambassador then inquired about our con-
7 versations with London and Washington regarding the
8 East Asiatic conflict. I outlined to the Ambassador
9 once more our attitude in general terms. Mushakoji
10 was satisfied with this. However, later he continued
11 /to state/ that Japan misses complete German under-
12 standing for the anti-Communist achievement which the
13 Japanese action against China constitutes. He tried
14 stubbornly to prove that Japan is doing anti-Communist
15 work in China also for our benefit. I replied to him
16 in accordance with the tenor of the wire to Tokyo of
17 today's date. When Mushakoji described the lack of
18 understanding for the anti-Communist feats of his
19 government which he encounters in Germany as a danger
20 for the continued true existence of the German-
21 Japanese agreement of Autumn 1936, I told him he should
22 not exaggerate. The German-Japanese relationship of
23 amity is quite beyond discussion. However, we cannot
24 deduce from our contractual relationship an obligation
25 to approve or assist morally a Japanese action which

1 might easily lead to the opposite of the aim which
2 both of us desire, namely, to a fostering of Commu-
3 nism in China and to driving the Chinese into the arms
4 of the Russians. Mushakoji then talked about the
5 idea to call the secret German-Japanese special com-
6 mittee which up to now has not come into existence,
7 before which committee he could then explain the anti-
8 Communist tendencies which prompted Japan to her pre-
9 sent action in China. (Mushakoji mentioned that Herr
10 von Ribbentrop and the Reichsminister are informed
11 about the organization of that Commission.)

12 "Mushakoji received my confidential infor-
13 mation that our instructors in China have orders not
14 to interfere in the Japanese-Chinese conflict with
15 thanks. Mushakoji then mentioned briefly the ques-
16 tion of transportation of war material. I declared
17 that a justified claim of Japan for the cancellation
18 of eventual delivery of arms from Germany to China
19 does not exist. However, we did not go deeply into
20 the topic.

21 "In conclusion, Mushakoji used again some
22 partly plaintive and partly threatening phrases about
23 the failure of his mission in Berlin. I laughed him
24 off with this.

25 "(Signed) Weizsacker."

1 I will now present additional documents con-
2 tained in Exhibit 486, which are prosecution Documents
3 1273-1, 1271-B, 1269-A, and 1270-B. They are
4 Items 16, 8, 1, and 10, respectively, of Exhibit 486.

5 THE PRESIDENT: They will be lettered B, C,
6 D, and E, respectively.

7 MR. TAVENNER: These documents contain a
8 series of telegrams, four of which will be relied upon
9 to show that upon failure to overthrow the regime of
10 Chiang Kai-shek after the siege of Shanghai, as shown
11 in a previous phase of the case, Japan, acting through
12 Germany, made peace proposals, the terms of which were
13 subsequently increased in severity on two separate
14 occasions.

15 THE PRESIDENT: I think you had better read
16 it after the adjournment.

17 We will adjourn now until half past one.

18 (Whereupon, at 1200, a recess was
19 taken.)
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AFTERNOON SESSION.

The Tribunal met, pursuant to recess,
at 1345.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Tavenner.

MR. TAVENNER: If the Tribunal please, I
will read document, prosecution document 1273-1,
which is exhibit 486-B. I will commence with the
communication on page 1 of that document.

"Very Secret!

"Urgent!"

"Chinese Foreign Minister read to me
following text of oral statement today, which he
requested to convey Japanese Government. 'On
November 5th, 1937, certain peace terms proposed
by Japan were made to us at Nanking through the
kindness of Your Excellency. Subsequently on
November 28th and November 29th and also December
2nd Your Excellency again communicated to Chinese
authorities at Hankow and Nanking the intentions
of the Japanese Government and informed us that
Japanese authorities had stated in spite of the
best military success gained by Japan and terms

1 proposed by the Japanese Government early in
2 November were still to stand. In view of the
3 good offices performed by Germany and the desire
4 for the restoration of peace on the part of Japan
5 we requested Your Excellency to inform Japanese
6 Government that China was prepared to take the
7 points proposed by Japan as the basis of discussion.

8 "On December 20th and December 27th
9 Your Excellency communicated to us certain
10 'basic conditions' from Japan saying that the
11 German Ambassador at Tokyo had been informed by
12 the Japanese Minister for Foreign Affairs that
13 those new conditions were proposed by Japan,
14 because of the changing of the circumstances.
15 After due consideration we have found that the
16 altered terms are rather too broad in scope. The
17 Chinese Government desires therefore to be apprized
18 of the nature and content of the newly submitted
19 conditions in order to make a careful examination
20 and reach a definite decision.'

21 "Minister told me that the text was
22 already finished yesterday evening but he had
23 to have consent of a colleague. I asked him
24 whether he was not afraid that the Japanese would
25 consider this statement for evasive. Moreover it

1 seemed to me that the wish for an understanding
2 does not find expression in the statement minister
3 answered, the Government could not make any decision
4 and express an opinion before it knew details of
5 the Japanese demands.

6 "Duplicate sent to Tokyo."
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1 MR. TAVENNER: I now read in evidence--

2 THE PRESIDENT: Who received this telegram?

3 MR. TAVENNER: This telegram, may I explain,
4 is not signed. It is a copy of a telegram that was
5 sent by Trautmann to the Foreign Minister in Germany,
6 which was signed, but in the body of which the lan-
7 guage was garbled.

8 THE PRESIDENT: You cannot give evidence
9 and clear it up by evidence.

10 MR. TAVENNER: That is a preliminary state-
11 ment to the introduction of the original telegram,
12 of which the body was garbled in several particulars,
13 as set out in the document, and which was signed,
14 and which, in support of this explanation, I desire
15 to introduce that in evidence. I desire to intro-
16 duce prosecution document 1271-A in evidence for the
17 purpose only of showing the signature of Trautmann
18 to the telegram which I have just read in evidence
19 as prosecution document 1273- item 1. This is item
20 7 in exhibit 486. Has the Clerk assigned a letter
21 to this document?

22 CLERK OF THE COURT: It is given exhibit
23 No. 486-J inasmuch as other letters have been as-
24 signed to your previous documents.

25 MR. TAVENNER: I do not understand whether

1 the Court has admitted that document.

2 THE PRESIDENT: Admitted on the usual
3 terms. We have decided to admit all those listed.

4 MR. TAVENNER: (Reading)

5 "DOCUMENT NO. 1271B

6 "Telegram (Secret Cipher Process)

7 "Tokyo, 14 January 1938

8 "TOP SECRET:

9 "URGENT:

10 "For the Reichsminister personally.

11 "1. I have handed over to the Foreign
12 Minister the text of the declaration given by the
13 Chinese Foreign Minister to Ambassador TRAUTMANN.

14 "HIROTA was very angry at the meaningless
15 Chinese declaration, considered it as mere evasion
16 and remarked that the Chinese had all the necessary
17 bases in order to say yes or no. Finally, it was
18 China who was beaten and who must ask for peace,
19 and not Japan, who had to give information con-
20 tinually.

21 "I reminded the Foreign Minister that
22 officially the Chinese Government had knowledge
23 of only four fundamental conditions up till now.
24 All further communications from him to me had been
25 forwarded, at his wish, to the Chinese Government

1 only in a very indefinite form. I advised him,
2 either to stipulate the details of these declara-
3 tions or to announce agreement that they would be
4 now communicated to the Chinese as official state-
5 ments of the Japanese Government.

6 "HIROTA replied that he would have to ask
7 the cabinet and had prospects of speedy reply.

8 "2. HIROTA told me confidentially, in
9 reply to my question, that the Chinese attempt
10 to win over the Americans to support them at the
11 peace negotiations had failed. Roosevelt had re-
12 fused any intervention.

13 "3. On the American side, I was told
14 that reports of a \$150,000,000 credit to China
15 in American banks was incorrect.

16 "4. The Italian Ambassador was given
17 information by the Foreign Minister.

18 "Copy to Hankow.

19 "DIRKSEN"
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1 MR. TAVENNER: Prosecution document No.
2 1269-A, exhibit 486-D, is a telegram from Ambassador
3 Trautmann of 11 January, 1938. I will read from
4 page 1:

5 "Hankow, 11 January, 1938 - Top Secret -
6 Attention!

7 "I have received telegram No. 13 from
8 TOKYO today. I hesitate to inform the Chinese
9 without instructions from there. The Japanese seem
10 now to be altering for the second time their state-
11 ments which were issued through us, although the
12 telegram is not quite clear.

13 "Transmission of such altered statements is
14 considered here as a 'dirty trick' which the Japanese
15 are playing on us, and we are losing face with the
16 Chinese through this.

17 "Copy to Tokyo.

18 "/s/ Trautmann."

19 Added in a handwritten note is the following
20 quotation:

21 "Lack of clearness noticed also here. Do
22 not delay transmission if situation is tense. Trust
23 that by regulation language suspicion will be elimin-
24 ated, as if (4 words illegible) Tokyo."

25 Prosecution document No. 1270-B, exhibit

1 No. 486-E, is an answer to the last mentioned telegram
2 from Trautmann. (Reading):

3 "Berlin - 12 January, 1938.

4 "Pass through without secrecy classification!

5 "Telegram in Ciphers (Secret Cipher Process)

6 "The deviation from the earlier Japanese
7 statements contained in wire No. 13 from Tokyo was
8 also noticed by us. We interpret the statements of
9 HIROTA as follows: Japanese military circles take
10 again a different stand, while the Foreign Ministry
11 apparently remains at its previous standpoint. Con-
12 sidering the fact that the situation has come to a
13 critical point, we did not consider ourselves
14 justified in accordance with our role as 'letter-
15 carrier' not to transmit the Japanese statement or
16 to postpone the transmission. I am sure you will have
17 avoided in transmitting statements to the Chinese to
18 give any official or personal interpretation and will
19 surely have spoken in such a manner that there can be
20 no suspicion against us as if we had made ourselves a
21 tool of an unclear or unclean Japanese trick. Tokyo
22 was notified of this. MACKENSEN."

23 I will now read an office memorandum by
24 German Foreign Minister von Neurath from page 2 of
25 document No. 1269-A, which is also exhibit No. 486-D.

1 The purpose of this document is to show that Germany
2 by secret negotiations endeavored to lead Japan into
3 altering her policy with respect to military aggres-
4 sion in China. (Reading):

5 "The Japanese Ambassador referred to the
6 mediation activities of Germany in the Sino-Japanese
7 conflict, when he called on me today. By order of
8 the Minister HIROTA he expressed his thanks for our
9 activities. Making use of this opportunity I have
10 pointed out to Mr. TOGO the danger, which might grow
11 up in Japan on account of the too prolonged war. Mr.
12 TOGO has explained on his side, that Japan wishes
13 to work for peace cooperate with China and wishes con-
14 clusion of the hostilities as soon as possible. But,
15 on the other hand, the Japanese Government is deter-
16 mined to carry on the war to its bitter end and the
17 conditions of peace would naturally become the more
18 harder, if the war continue the more longer. Besides,
19 the Japanese Government no longer considers today
20 Chiang Kai-shek as representative of the Chinese
21 Central Government. Japan is still willing to
22 negotiate with him. However, if he would not accept
23 the Japanese peace conditions, the Japanese would
24 make peace with each provincial governors. To believe
25 the military victory of China is a fantasia.

"The Ambassador stressed then in addition, that the Japanese are taking the greatest interest in working hand in hand with the German in China's economic development. There would be no exclusion of German trade in China, which was sometimes feared by German merchants.

"Then I referred to the recognition of Manchukuo and explained our standpoint in this question to the Ambassador. I pointed out, that for instance our present communication activities between Japan and China would be absolutely impossible, if we would recognize Manchukuo together the Italians. The Ambassador seemed to understand this and did not, for his person, urge a German action in this respect.

"Berlin, 10 January 1938.

"Frhr. von Neurath."

Prosecution document No. 1270-A is in evidence as item 9 of exhibit No. 486 but has not had a number.

CLERK OF THE COURT: "F".

MR. TAVENNER: This is a telegram from German Ambassador Dirksen in Tokyo to the German Foreign Minister. (Reading):

"Tokyo, 10 January 1938.

"URGENT! VERY URGENT! SECRET!

"For the Reichs Minister personally."

1 THE PRESIDENT: What letter?

2 MR. TAVENNER: The letter "F".

3 CLERK OF THE COURT: Prosecution's document
4 No. 1270-A is exhibit 486-F.

5 MR. TAVENNER: (Reading)

6 "Upon (one group of letters garbled) of
7 today's press reports regarding continuation of war
8 and statement of spokesman in press conference regard-
9 ing break of negotiations between Japan and China,
10 visited Foreign Minister in order to receive from him
11 a new confirmation that the term of January 10th
12 mentioned by the Vice Minister in telegram #6 of
13 January 6 is no ultimatum.

14 "HIROTA confirmed this and added that the
15 Japanese Government is expecting Chinese answer, but
16 must insist on utmost speed. The decisions of the
17 Government which were mentioned in the press concern
18 measures for the case of a refusal by China.

19 "Upon the question whether request for
20 clarification from the Chinese Government would not
21 be admissible, HIROTA answered that the military in-
22 sists upon immediate and clear answer.

23 "In my opinion the pressure of the national-
24 istic wing has increased to such an extent that the
25 moderate wing will give in if a positive answer of

1 the Chinese Government does not arrive soon.

2 "Identical telegram was sent to Hankow.

3 "DIRKSEN"

4 Prosecution document No. 1269-A, which is
5 in evidence as exhibit No. 486-D, appearing on page
6 3 of that document will be read for the purpose of
7 showing that other military aggression was threatened
8 by Japan at this time. It is a telegram from Dirksen
9 and after reading the caption I will read Part II of
10 the telegram. (Reading):

11 "Tokyo, January 5, 1937.

12 "TOP SECRET URGENT

13 "II. In this connection, the Foreign Minister
14 explained with great seriousness and emphasis that
15 Japanese Government must now insist upon a quick reply
16 of the Chinese Government. It has confidential and
17 reliable information that the Chinese Government has
18 informed third governments (England and America) of
19 the peace conditions and has asked for their advice.
20 Conversation in this connection has taken place between
21 Roosevelt and the Chinese Ambassador Wang. Japan could
22 not tolerate that an international discussion develops
23 about the conditions and that China is influenced
24 from the most diverse sides. The indiscretions of
25 the Press are also partly based upon this. The

1 attitude of China is the more open to attack, as
2 Chiang Kai-shek himself demanded unconditional
3 secrecy of the negotiations. Therefore quick reply
4 is also necessary because new military operations
5 are planned.

6 "DIRKSEN."

7 On the last page, page 5 of this same
8 document, No. 1269-A, in evidence as exhibit No.
9 486-D, is a telegram from Dirksen to the German
10 Reich Minister. (Reading):

11 "Tokyo - 11 January 1938

12 "TOP SECRET Attention!

13 "Secret. For the Minister of the Reich in
14 person. I have a reliable report, that today's
15 Privy Council" --

16 I would like, if your Honor please, to
17 stop at that point for a moment and state that Mr.
18 USAMI of counsel for the defense contends that that
19 word, "Privy Council" has been misinterpreted; that
20 it means, "Imperial Council."

21 THE PRESIDENT: The matter is referred to
22 the Language Section.

23 MR. TAVENNER: Yes. (Reading continued):

24 "I have a reliable report, that today's
25 Privy Council is said to have decided upon the

1 following action in case the Japanese conditions are
2 refused:

3 "Declaration of war, denial of the NANKING
4 government and substitution of the provisional govern-
5 ment of PEKING, the continuance of military operations.
6 To support this operation, new supply-shipments are
7 now going to the front.

8 "Duplicate sent to HANKOW.

9 "DIRKSEN."

10 I desire also to call to the Tribunal's
11 attention that the date of that telegram on its face
12 is 11 January, 1938 -- I am in error. I meant --

13 THE PRESIDENT: Is that telegram in Japanese
14 or German?

15 MR. TAVENNER: In German.

16 I would like to call to the Tribunal's
17 attention that in the document, No. 1269-A, page 3,
18 the telegram from Dirksen of January 5 shows the date
19 January 5, 1937. It is the prosecution's position
20 that that is a clerical error and that by context it
21 shows that it must have been the year 1938.

22 Prosecution's document No. 1273, which is
23 item 17 of exhibit No. 486, is a telegram from Amba-
24 sador Dirksen to the German Reich Minister. The
25 number assigned is "B" -- rather the letter assigned

1 is "B". It will be found on page 2 of this exhibit.

2 (Reading):

3 "Telegram (Secret Cipher Process)

4 "Tokyo, 16 January 1938 TOP SECRET

5 "URGENT!

6 "Secret. For Reich Minister personally.

7 "1.) Foreign Minister handed to me the
8 following text of answer of Japanese Government at
9 10:30 a.m. today to statement of Chinese Government
10 of 13 January with the request to pass it to Hankow
11 as quickly as possible. HIROTA expressed gratitude
12 of Japanese Government repeatedly and vigorously for
13 efforts of German Government to bring about negotia-
14 tions for peace. Then, he handed to me a government
15 statement to the Japanese people to be published this
16 afternoon, which will be given to D.N.B. /German
17 News Agency/

18 "2.) Text of answer.

19 "Strictly confidential.

20 "I desire to express my sincerest apprec-
21 iation of the good offices of Your Excellency's Govern-
22 ment and the earnest efforts of Your Excellency re-
23 garding the question of opening direct negotiations
24 for a peaceful settlement of the Sino-Japanese affair.
25 However, the Chinese reply concerning the said

1 negotiation, having been postponed several times,
2 failed to reach us even on the 10th January, so that
3 we had to wait a few more days for its arrival. When
4 received at last yesterday, the Chinese reply was
5 found to be merely a perfunctory one, asking for de-
6 tails of our terms. We cannot but conclude that the
7 attitude of procrastination on the part of the
8 Chinese Government reveals no intention to sue for
9 peace by accepting in their entirety the basic con-
10 ditions for peace negotiations, which I had previously
11 made known. Therefore the Imperial Government have
12 now decided to abandon much to their regret, the
13 present negotiations for peace between Japan and
14 China undertaken through the kind endeavors of Your
15 Excellency's Government and to deal with the present
16 affair from an entirely new standpoint.

17 "Let me tender again to Your Excellency an
18 expression of my heartfelt gratitude for the friendly
19 solicitude and efforts of the German Government in
20 connection with the question.'

21 "3.) Finally Foreign Minister asked our
22 consent for fact of publication of our assistance to
23 bring about negotiations. I answered I would request
24 instruction of German Government. HIROTA requested
25 as quick an answer as possible. I request speedy

1 telegraphic instructions."

2 Prosecution document No. 1273-D, which is
3 item 18, has been assigned the letter "G" in exhibit
4 No. 486. This is a telegram from Ambassador Dirksen
5 to the Reich Minister. Attention is called to the
6 fact that the signature of Ambassador Dirksen, although
7 appearing on the original document, was erroneously
8 omitted in the Japanese translation. (Reading):

9 "Tokyo January 17, 1938 TOP SECRET

10 "For the Reichsminister personally.

11 "1) In the course of conversation after
12 presentation of Japanese answer I expressed my
13 regret to the Foreign Minister that the decisive
14 statement of the government was published immediately
15 after presentation of answer and that Japanese answer
16 cuts off any future discussion. Even if Japanese
17 impatience over prolonged and unsatisfactory attitude
18 of China is understandable, Japan bears responsibility
19 to the world for breaking off the discussion.

20 "2) Then, I asked HIROTA about the future
21 intentions of Japan. Is a declaration of war intended
22 or advance against Canton and Hainan Island? HIROTA
23 declared both as not being planned for the time being.

24 "3) Then, I expressed my anxiety about
25 threefold unfavorable reaction of the continuance of

1 war on German-Japanese relations.

2 "a. A danger that the English-Japanese
3 relations become more strained, which is not
4 desirable to us.

5 "b. Bolshevization of China.

6 "c. Weakening of Japan toward Russia by
7 tying up Japan's entire strength against China.

8 "Foreign Minister answered to this:

9 "To a. Every further aggravation against
10 England ought to be avoided. Corresponding severe
11 instructions have been issued to the army for avoid-
12 ance of incident.

13 "To b. Chiang Kai-shek is, in any event,
14 falling under the Communistic influence more and
15 more. The continuance of operations, therefore,
16 does not mean aggravation.

17 "To c. My considerations are justified
18 in case of prolonged continuation of the war, but
19 this could certainly not be counted on.

20 "4) The rupture of connection with Chinese
21 government and the severe declaration was decided
22 upon only after violent debate of many hours in
23 which a part of the military authorities supported
24 continuation of the negotiations.

25 "DIRKSEN."

1 The Tribunal's attention is called to
2 order No. 400 in which judicial notice was taken
3 of the following historical events: February 4, 1938,
4 Joachim von Ribbontrop replaced Constantine von
5 Neurath as German Foreign Minister; major changes
6 were made in the German Army; Chancellor Hitler
7 assumed supreme command.

8 Prosecution document No. 1276, item 19
9 of exhibit No. 486 and assigned the letter "H,"
10 is a telegram from Ambassador Dirksen. It is
11 presented for the purpose of showing that shortly
12 after the Japanese cabinet meeting of 16 January
13 1938 it was considered necessary that Germany's
14 policy regarding the Japanese aggression in China
15 be reoriented. I believe I referred to this document
16 as a telegram. It is a report which may or may not
17 have been sent in the form of a telegram.

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1 MR. TAVENNER (Reading):

2 "Tokyo, 26 January 1938.

3 "Foreign Office.

4 "Political Report5 "Secret6 "Contents: The adaptation of German-Japanese
7 relations to the present state
8 of the Japanese-Chinese Conflict.9 Page

10 "1. The conclusion of the mediation . 1 to 2

11 "2. The China conflict and German

12 Japanese relations 3 to 4

13 "3. Military advisers 4 to 6

14 "4. War material deliveries 7

15 "5. Recognition of Manchukuo 7 to 8

16 "6. Conversion towards North-China .. 8 to 11

17 "To the Foreign Office, Berlin.

18 "1. The conclusion of the mediation.

19 "With the unsuccessful conclusion of the

20 German efforts to bring the two parties of the
21 Chinese-Japanese conflict to the conference table,
22 a new chapter in the war, with all the foreign
23 political reactions, connected with it, especially
24 regarding the relation with Germany, has begun.
25 There is, therefore, little point in analyzing

1 in detail these negotiations which are now closed;
2 it will suffice rather to note that China has not
3 seized the second opportunity to begin peace ne-
4 gotiations, offered to her by Japan; from the fact
5 that Marshal Chiang Kai Shek evaded a definitive
6 discussion of the Japanese terms with Mr. TRAUTMANN
7 and that the Chinese Ministerial Council has not
8 occupied itself in an official session with the
9 Japanese terms and the explanations given to them
10 by us, until within the last few days, it was
11 clearly evident that on the part of the Chinese,
12 there was no decision even merely to seriously
13 examine the Japanese terms. It is to be feared
14 that new blood will be spilt unnecessarily and
15 that the Chinese provinces will be destroyed with
16 the sole result that the Chinese - after the model
17 of the Sibylline Books - will in the end have
18 to sacrifice many times the originally demanded
19 price in order to purchase much harder terms than
20 those offered them by Mr. HIROTA in the beginning
21 of November.

22 "The immediate task which confronts us
23 is to draw the consequences of the resultant situa-
24 tion from the point of view of German-Japanese
25 relations. This is to be tried in the following

1 way on the two-fold supposition that Japan will
2 emerge from the conflict as the military victor,
3 and that China, as far as it does not rely on
4 England and America, will glide more and more
5 into the Russian current.

6 "2. The China-conflict and German-
7 Japanese relations.

8 "Up to now we have laid down our attitude
9 towards the two parties with the declaration of
10 Germany's absolute neutrality. That was no doubt
11 right for the first part of the Sino-Japanese
12 conflict, although non-recall of the military
13 advisors and the continuation of supply of war
14 materials was one-sidedly beneficial to China-
15 that is to say, Nanking Government, which sought
16 close connections with our fiercest enemy by con-
17 clusion of the Non-Agression Pact with the Soviet
18 Union, and which moreover leant on the Western
19 Powers and the Geneva ideology. Thus we have
20 reached a position in relation to Japan which
21 would have become difficult if Japan had vigorously
22 pressed us for a decision. In my annual report I
23 have shown why Japan, for domestic and foreign
24 political reasons, was in an embarrassing situation
25 of having to let Germany shine forth in spotless

1 glory. Thus the revaluation of all values took
2 place; that is, every month the Japanese laid
3 before us with obvious reproach, a review of the
4 considerable German imports of war materials into
5 China, while, on the other hand, the spokesman
6 of the Foreign Ministry coldly declared to English
7 and American journalists, who alluded angrily to
8 these imports, that the German Government had long
9 ago suspended it.

10 "It is obvious that this condition
11 must come to an end, as soon as Japan is out
12 of this embarrassing position. We must take
13 into count the fact that Japan, filled with deep
14 resentment will then bring us to unpleasant de-
15 cisions at a possibly awkward time. Therefore,
16 we shall do well already now to lay down our stand-
17 point again, just on the most thorny questions of
18 the military advisors and the supplies of war material,
19 and, if necessary, explain it to the Japanese. This
20 task is the more urgent because the fact has to be
21 reckoned with that third countries especially England,
22 will probably systematically point out the sensitive
23 points of German-Japanese relations out of displeasure
24 **at Germany's increasing influence in the Far East**
25 (action as mediator), and to cover up their own
importing of weapons.

1 "3. Military Advisors.

2 "With the unsuccessful conclusion of
3 Germany's attempts at mediation, the most essential
4 reason which could explain the activity of the
5 military advisors in the face of the ever increas-
6 ing pressure from the Japanese for their recall,
7 namely, that such a recall would cost Germany the
8 trust which the Chinese Government had still shown
9 in us up to now, and would therefore from the be-
10 ginning make hopeless German efforts at mediation,
11 also becomes untenable; this evidence is no longer
12 effective because no peaceful settlement is in the
13 offing, and if peace negotiations should come any-
14 way, then not with the present Chinese Government.

15 "For the same reason we can also no long-
16 er take as a precedent the fact that the German
17 military advisors, as impartial experts, can make
18 clear to Chinese military authorities the useless-
19 ness of further resistance.

20 "Above all, however, it is to be feared
21 that non-recall of the advisors will be harmful to
22 German prestige. According to reports of the Con-
23 sulate-General at Canton, Chinese agitators are
24 already daring to accuse German officers of having
25 disclosed plans of operations to the Japanese,

1 while, on the other hand, the Japanese army at the
2 front suspects that the advisors plan the operations
3 of the Chinese army and supervise their execution.
4 In the long run the continuous defeats of the Chinese
5 army will be imputed to the German advisors not only
6 by the parties to the conflict but also by third
7 countries interested in degrading Germany's name in
8 the Far East. It cannot help our prestige either, if
9 General FALKENHAUSEN and his co-workers withdraw to-
10 gether with the Chinese from Soochow to Nanking, from
11 there to Hankow and then further on to Chungking, and
12 still deeper into Inner Asia. In the long run, the
13 advisors will have to share the blame for the Chinese
14 defeats, however much these defeats might be caused
15 precisely by neglecting the counsels given by
16 Germany. Thus the argument given for retaining the
17 advisors - namely that in case of their recall, Rus-
18 sians would replace them, becomes void at the same
19 time.

20 "Of perhaps even stronger efficacy is the
21 simultaneously foreign- and military-political arg-
22 ument that for representatives of the German Army
23 such close cooperation with representatives of the
24 Red Army and Bolshevistic Russia is impossible.
25 That Sino-Russian collaboration did not become much

1 more close long ago, is to be traced, not to reserve
2 on the Chinese part, but to Soviet misgivings - SUN
3 FO's trip to Moscow was meant to remove these mis-
4 givings. But already now Russian material aid in
5 sending Russian airplanes and pilots, which had led
6 to a revival of the Chinese air attacks, is becoming
7 more and more apparent. That the slogan 'German-
8 Soviet collaboration' will be taken up eagerly by
9 the interested parties is shown in the enclosed cut-
10 ting from the 'China Weekly Review' of 25 December,
11 1937.

12 "The course of events in war has itself
13 caused further evidence which was brought up by the
14 German merchants in China to support the retention
15 of the military advisors in the field: namely, that
16 they (the advisors) were the pioneers and path-
17 finders for a considerable part of our China export
18 to crumble away. Even if Chinese ability and will
19 to buy further purchases in Germany should combine
20 with the technical possibility of executing this im-
21 port, already the geographical changes on the map of
22 China, caused by the course of the war, would bring
23 about a considerable shifting of the possibilities
24 for markets from the standpoint of percentage into
25 the areas occupied by Japan.

1 "Fully appreciating the importance of
2 our military advisors for our relations with China,
3 on which I always based my reserved judgment of this
4 question in the first phase of the war, I now advo-
5 cate for the above-mentioned reasons in agreement
6 with the Military Attache, General OTT, the immedi-
7 ate, complete recall of all German military advisors
8 still active in China.

9 "4. Supplies of War Materials.

10 "Only short explanations have to be made
11 in favor of the complete suspension of war material
12 supplies to China. From the reports from the Em-
13 bassy it is known how critically this very question
14 has influenced German-Japanese relations. The molli-
15 fying effect of the prohibition issued by the German
16 Government has vanished as a result of the continua-
17 tion of the supplies. The pause in Japanese pressure
18 for complete suspension is nearing its end; the at-
19 titude of the military authorities leaves no doubt
20 as to that. Possible allusions as to the technical
21 impossibility of bringing about the suspension of
22 war material supplies by German government measures
23 would not be understood here - the confidence in the
24 power of authoritarian Germany vis-a-vis private
25 capitalistic trader-tendencies is too great for that.

1 In the same way reasons of political expedience
2 and the necessity of also executing declarations
3 once issued, alike decree the suspension of war-
4 material-supplies to China; should there be funda-
5 mental differences of opinion about this idea,
6 clarification should be sought by discussions with
7 Japan."

1 "5. Recognition of Manchukuo.

2 "The adjustment of our relations with
3 Japan and China in view of the balance to be
4 struck at the present moment, should give us
5 occasion to declare our recognition of Manchukuo
6 before Japan's pressure makes itself unpleasantly
7 felt. I regard it as impossible that we can any
8 longer delay this recognition, which, after all,
9 now means no more than the confirmation of an
10 existing condition; the official remarks of the
11 Manchurian Government in Hsinking to Councilor
12 KNOLL is the first indication that the recognition
13 must now be effected. Italy's action has, regard-
14 ing Japan, robbed us of a pretext for further de-
15 lay and, regarding China, given into our hands a
16 weakening of Chinese sensitiveness - in case this
17 should yet have to be considered in view of the
18 definite Moscow course of the Hankow-Chungking
19 Government. The cream of the economic possibil-
20 ities of a recognition of Manchukuo has been
21 skimmed by the economic agreement and the estab-
22 lishing of the commercial agency. The opportu-
23 nity for an extensive economic-political trans-
24 action with Japan on the occasion of the recog-
25

1 nition of Manchuria would have offered itself if the
2 plans discussed by us a few years ago had been fol-
3 lowed up. Now the recognition of Manchuria could,
4 in spite of the Italian action, still serve to
5 make Japan a friendly and here certainly apprec-
6 iated gesture if the occasion should arise (anniv-
7 ersary of the founding of the empire).

8 "6. Conversion to North China.

9 "The recognition of Manchukuo is at least
10 idealistically connected with the further construc-
11 tive and perhaps most important task with which we
12 will be confronted by the further course of events
13 in China: the necessity to orientate our China
14 policy to a considerable part of North China.

15 "We will have to consider the fact that
16 North China up to the Yellow River and beyond that
17 to the borders of the Shantung Province, will be
18 under the direct Japanese influence for a number
19 of years, maybe decades; that Shanghai and its
20 hinterland to beyond Nanking - in a few months may-
21 be beyond Hankow - will be occupied by Japanese
22 troops for some time. Maybe for a few years, that
23 only behind a wide war zone west of this territory
24 will the undisputed power of the government of
25

1 Rump-China begin; and that, finally, the conditions in
2 South China, especially in Canton, will be very un-
3 certain at least for the duration of hostilities, be-
4 cause, even if a military advance against Canton is
5 for the present apparently unprobable, the connec-
6 tions of this city with the outside world will be
7 hindered by the Japanese as much as possible.

8 "It follows from this that, for a long
9 time, the North China of the five Provinces will
10 be the quietest part of China and the one which will
11 be the first to return to normal life. The further
12 economic function of Shanghai will anyway represent
13 only a fraction of its former significance until
14 the conclusion of peace; what will later become of
15 the trade center on the Yangtse will have to be
16 awaited. The part of South China which is close to
17 the coast will hardly lead a normal political and
18 economic life under the influence of the events of
19 war - at least air attacks. The same will apply
20 to Central China, which is pushed away from the
21 coast.

22 "We will have to draw the conclusion from
23 this, that in our China policy we must at least put
24 the accent more strongly economically and politic-
25 ally on North China; we will have to regard our

1 China problems more from Peking than from Shanghai,
2 Hankow or Chunking.

3 "This by no means necessitates offending
4 the Chinese government forever. Outwardly important
5 change would have to take place. Naturally the
6 allotment of the official representatives of the
7 Reich would remain the same; it would be wrong, too,
8 if German firms should give up their establishment
9 in Shanghai. The fact, beneficial to us, that be-
10 sides consular representation in North China, a
11 diplomatic office exists in Peking and that fur-
12 thermore German firms have operated in North Chi-
13 na before anyway gives us enough strong points for
14 our new orientation.
15

16 "The most urgent requisite for this shap-
17 ing of our interests in North China seems to me to
18 be the establishing of a close connection with the
19 Japanese military and civil authorities. It will
20 not be difficult to achieve this by building up
21 the office in Peking and by appointing to it an
22 elderly official experienced in service in Japan.

23 "The economic shifting of our interests
24 to North China will be already undertaken to a cer-
25 tain degree by the private initiative of our China

1 firms. It will be the task of the organs of the
2 state to promote this development. Above all, how-
3 ever, it seems urgent that the possibilities of an
4 economic opening up of North China, or otherwise
5 our cooperation with the Japanese authorities in
6 this be examined by prominent individuals, German
7 experts or by a small delegation specially set up
8 for this purpose.

9 "It cannot be the purpose of this report
10 to deal definitively with the difficult and com-
11 plicated questions, which the concept 'economic
12 opening-up of North China' contains. But I have
13 thought it my duty to point out, that in the kal-
14 eidoscopic happenings of the Japanese-Chinese con-
15 flict a decision has now been reached which con-
16 fronts German policy with the necessity of taking
17 a number of different measures in this connection
18 in order to keep up with this development.

19 "The offices in Hankow and Hsinking have
20 received a copy of this report by a safe way.

21 Signed

22 Von Dirksen"
23
24
25

1 THE PRESIDENT: I referred a question to the
2 Language Section as to the meaning of a word in an
3 exhibit in German. The word is "Thronrat". The
4 German dictionary meaning of that is "Privy Council"
5 as appears in the English translation but it may
6 appear as "Imperial Council" in the Japanese trans-
7 lation. If so, it is an error.

8 MR. TAVENNER: I am informed that it appears
9 in the Japanese language as "Privy Council."

10 The Tribunal has taken judicial notice of
11 the following historical fact. On 20 February 1938
12 Chancellor Hitler recognized Manchukuo and expressed
13 preference for a Japanese victory.

14 Prosecution document 1274 is in evidence
15 as item 13 of exhibit 486, and has received the
16 letter "I".

17 Reading from page 1 at the top of document
18 1274 -- I desire to state that the purpose for reading
19 this document is to show that Japan claimed to be
20 prepared and determined to conduct a prolonged war
21 against China and to show that Japan made economic
22 overtures to Germany regarding trade in China. This
23 and the following document will be read for that
24 purpose. The first-mentioned is from von Neurath,
25 and reads as follows:

1 "The Japanese Ambassador visited me on the
2 22nd of this month. The occasion was the return of
3 my official visit with him. The Ambassador trans-
4 mitted on this occasion the thanks of the Japanese
5 Government for the endeavors of Germany for the
6 re-establishment of peace in East Asia. Upon my
7 question how Japan envisions the further development
8 of the matter in China, the Ambassador declared that
9 the Japanese Government could, after the military
10 defeat of Chiang Kai-shek, no longer recognize him
11 as representative of the Chinese People and that the
12 Chinese Central Government did no longer exist. Japan
13 would now endeavour to negotiate about the end of
14 the state of war with a new Chinese government, which
15 probably would be composed of the already existing
16 governments in Peking and Shanghai. In reply to my
17 objection that there would then probably still remain
18 a big and not yet pacified area of China, the Ambassador
19 replied that they were prepared for everything in
20 Japan and that they would also know how to carry the
21 burden of a prolonged state of war.

22 "Then the Ambassador mentioned that his
23 government is desirous of expanding the trade of goods
24 with Germany. However, it is of importance for them
25 to obtain long range credits for the receipt of German

1 goods beyong the present volume. I told the Ambassador
2 that he knew our situation and that I could tell him
3 already today that even with the best intentions we
4 were not in a position to grant any bigger long term
5 credits. The Ambassador declared then that Japan does
6 not wish to change the present structure of our economic
7 relations and that she is also ready to make the
8 payments provided in our agreement in foreign exchange;
9 but, whatever would be exported to Japan beyond the
10 present volume of the German export would have to be
11 paid by barter with Japanese goods. He, the Ambassador,
12 would get into contact with the economic authorities
13 in Germany regarding the details.

14 "Berlin, 28 January 1938. V. Neurath."

15 . The Japanese Ambassador at that time was TOGO.

16 The next document referred to is prosecution's
17 document 1274 which has been assigned the letter "I"
18 and is the same document as that from which I just read.
19 The document that I will now read appears at the bottom
20 of page 1. However, the only part of it that I will
21 read is the last paragraph which will be found near
22 the top of the next page. That is page 2. It is a
23 memorandum from Weissacker.

24 (Reading): "Berlin, 28 January 1938, Memo-
25 randum.

1 "In the further course of the conversation
2 which dealt no longer with the supposedly impending
3 British feeler, Mr. TOGO mentioned that the moment
4 would soon come when we would have to start talking
5 about German cooperation with Japan in the New China
6 which is to be constructed. Mr. TOGO did not talk
7 about the recognition of Manchukuo.

8 "/s/ Weissacker."

9 THE PRESIDENT: Well, you are about to break
10 new ground, Mr. Tavenner. We will adjourn until
11 half-past nine on Monday morning.

12 (Whereupon, at 1500, an adjournment
13 was taken until Monday, 23 September 1946, at
14 0930.)
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